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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,387	06/27/2001	Yoshihiro Takashimizu	010803	2563

38834 7590 04/17/2006

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EXAMINER

CHANKONG, DOHM

ART UNIT PAPER NUMBER

2152

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/891,387

Applicant(s)

TAKASHIMIZU ET AL.

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1> This action is in response to Applicant's arguments. Claims 1-5, 7-9 and 12-19 are presented for further examination.

2> This is a final rejection.

### *Response to Arguments*

3> The objection to the title of the invention is withdrawn.

4> Applicant's arguments filed 2.14.2006 have been fully considered but they are not persuasive for the following reasons.

### Summary of claim rejections

Claims 1 and 15-17 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Applicant's Admitted Prior Art ["AAPA"], in view of Mikkonen, U.S Patent No. 6.885.633. Claims 2 and 18 stand rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA and Mikkonen, in view of Wang et al, U.S Patent No. 6.587.970 ["Wang"]. Claim 1 stands rejected under 35 U.S.C § 103(a) as being unpatentable over Mikkonen, in view of Wang. Claims 2-5, 7 and 12 stand rejected under 35 U.S.C § 103(a) as being unpatentable over Mikkonen and Wang, in view of Ould-Ali, U.S Patent No. 5.649.091 ["Ould-Ali"], in further view of Li et al, U.S Patent No. 5.473.599 ["Li"]. Claims 8 and 9 are rejected under 35 U.S.C § 103(a) as being unpatentable over Mikkonen, Wang, Ould-Ali and Li, in further view of

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AAPA. Claim 19 stands rejected under 35 U.S.C § 103(a) as being unpatentable over AAPA and Mikkonen, in view of Ould-Ali.

Claims 1 and 15-17, AAPA in view of Mikkonen

Applicant argues in substance that the combination of AAPA and Mikkonen do not disclose the claimed invention. As recognized by Applicant, AAPA did not disclose that the basic units are in one relay apparatus or that the basic units share the same network address. Applicant's remarks, pg. 3, ¶3. Applicant then asserts that "Mikkonen does not teach or suggest incorporating a common unit or duplexed host computers". Id., pg. 4, ¶1. It should be noted that Mikkonen was not relied upon to teach a common unit [AAPA already teaches a common unit element]. Mikkonen was relied upon to disclose that the basic units are in one relay apparatus and that the basic units share the same network address. It should be further noted that the claim does not disclose "duplexed host computers" so it would be unnecessary for either Mikkonen or AAPA to disclose such elements.

Applicant further asserts that Mikkonen "does not stop the basic unit of the present system and switch it to an operation of the basic unit of a standby system". The Office disagrees. Mikkonen clearly discloses two basic units, one of them serving as a backup to the first basic unit [column 2 «lines 16-18 and 37-44»: where "only one is active during normal operation" | column 4 «lines 10-20»]. Mikkonen's concern with providing fault-tolerance to the network further evinces that one of the basic units serves as a standby system for when the primary basic unit fails.

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Applicant also asserts that Mikkonen discloses nodes with different IP addresses. See id., pg. 4, ¶ 2. However, it should be noted that Applicant's claim merely requires that the second basic unit share a network address with a first basic unit and in no way precludes sharing of more than one network address. Mikkonen's basic units clearly share a network address [Figure 1 «items 110a and 110e» where : both basic units have the network address "IP A" | column 2 «lines 20-22» where each basic unit has the same interface (same IP and MAC addresses) and each basic unit has more than one interface, also having the same IP and MAC addresses]. Thus, Mikkonen discloses that each basic unit has the same network address as required by claim 1.

Applicant reiterates these arguments for claims 15-17 and so the preceding remarks apply Applicant's arguments to those claims as well.

Claim 1, Mikkonen in view of Wang

Applicant asserts that "Mikkonen is not at all concerned with detecting a change in the operational status of a first host computer". Applicant's remarks, pg. 6, ¶ 1. The Office disagrees. As discussed previously, Mikkonen contemplates providing fault tolerance to a network and does so by providing two basic units (or nodes) whereby only one is active during network use, and the second provides backup functionality if the active unit fails [column 2 «lines 16-18» : where "only one is active during normal operation" | column 4 «lines 10-20»].

As summarized by Applicant, Wang as disclosing a controller unit that detects a change in the operational status of the primary host computer and switches over to the

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secondary host computer. Wang's system is thus analogous to Mikkonen's system whereby Mikkonen's basic units correspond to Wang's computers. Wang's controller thus would improve Mikkonen's failover capability [see Mikkonen, column 4 «lines 30-32»] by placing the responsibility of performing device failover on a separate controller device which helps prevent loss of data over the network [see Wang, column 7 «lines 18-46»].

Thus, Wang and Mikkonen are directed towards analogous problems, and the incorporation of Wang's common unit into Mikkonen's system would enhance and improve Mikkonen's ability to perform device failover.

#### Conclusion

For the foregoing reasons, Applicant's arguments are not persuasive. The rejections as set forth in the previous action, filed 11.14.2005, and summarized above, are maintained.

#### *Conclusion*

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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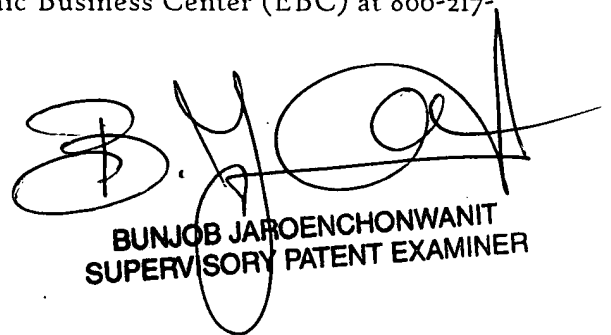
advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



**BUNJOB JAROENCHONWANIT**  
**SUPERVISORY PATENT EXAMINER**